

REMARKS

Claims 1 - 3, 5 - 12, 13 and 14 remain active in this application. Claims 4 and 13 have previously been canceled. Amendment of claim 1 has been requested. Support for the amendments is found throughout the specification and verbatim support is found on page 9, line 22, of the specification as originally filed. No new matter has been introduced into the application.

Claims 1 - 3, 5 - 8, 11 - 12, 14 and 15 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner has also required deletion of previously submitted amendatory matter. This ground of rejection and requirement are respectfully traversed, particularly as being moot in view of the amendment requested above.

The Examiner has criticized the phrase "to obtain and transmit data. It is respectfully submitted that the Examiner's position in this regard is not well-taken since substantially verbatim support for such language was previously pointed out but the Examiner dismisses the support as inadequate since it appears in the "Background" section of the specification. Nevertheless, it is respectfully submitted that the supporting language, while directed to portable radio terminal devices in general and not exclusively to the invention, the passage does, in fact, disclose the function of a portable radio terminal device to which the invention, as claimed, is also directed. Further by mention of "radio" as well as "talk" and "data" the passage is clearly of enabling of use of an antenna for such communication in view of the necessity of an antenna for communication by radio signals. It is also respectfully submitted that

this ground of rejection and requirement for deletion of words that do, in fact, appear in the specification in the same context as in the claim amendment are clearly in error.

However, to expeditiously resolve this issue (without raising any new issue) deletion of the criticized language has been requested and "antenna" changed to "transmission antenna" for which there is exact verbatim support in the original specification and also in claim 9 which is not included in this ground of rejection. Moreover, as previously pointed out, the context of "transmission antenna" throughout the specification and claims connotes both transmission and reception functions of a single antenna which is also clearly disclosed in the original specification as is also connoted by the original language of the specification as switching between antennas "for use" of the portable radio terminal device which clearly includes both transmission and reception. Therefore, while the rejection and requirement are believed to be clearly erroneous, they are now clearly moot and reconsideration and withdrawal of the same is respectfully requested.

Claims 1, 3, 5, 7 and 8 (and evidently claim 2) have been rejected under 35 U.S.C. §103 as being unpatentable over Mizoguchi in view of Vannatta et al. Claims 9, 11 and 12 have been rejected under 35 U.S.C. §103 as being unpatentable over Werling in view of Bowen. Claim 6 has been rejected under 35 U.S.C. §103 as being unpatentable over Mizoguchi in view of Vannatta et al. and Bowen et al. Claim 7 has been rejected under 35 U.S.C. §103 as being unpatentable over Mizoguchi in view of Vannatta et al. and Werling et al. Claim 10 has been rejected under 35 U.S.C. §103 as being unpatentable over Mizoguchi in view of Bowen and Vannatta et al. Claim 14 has been

rejected under 35 U.S.C. §103 as being unpatentable over Werling in view of Bowen et al. and Mizoguchi. These six grounds of rejection are respectfully traversed for the reasons of record which are hereby fully incorporated by reference and the further remarks provided below.

As previously pointed out, Mizoguchi teaches only antenna switching for purposes of diversity reception and, more importantly, does not teach switching of antennas in response to detection of antenna coverage by a user but only providing notice to the user to provide some correction of that circumstance. Further, in Mizoguchi, since the antennas are in close proximity to each other, switching between them would not achieve the correction to which the present invention, as claimed, is directed.

Vannatta et al. is cited by the Examiner for providing antennas in different portions of a folding telephone. However, the Examiner's reliance on column 3, lines 31 - 62 is respectfully submitted to be not well-taken. This passage merely indicates that the impedance of an antenna will change when the telephone is in a folded or unfolded position and that if it is well-tuned in one position, it will be detuned in another. The various antennas of Vannatta et al. are thus differently tuned and switched in accordance with the folded or unfolded condition of the telephone. Moreover, the passage of Vannatta et al. relied upon by the Examiner assumes at lines 48 - 51, that the upper part of the housing will be obstructed by the user's hand. Thus, neither Mizoguchi nor Vannatta et al. teach or suggest switching of antennas in direct response to detection of covering an antenna by a portion of the body of a user. By the same token, the combination of Mizoguchi and Vannatta et al. do not provide evidence of a level of

ordinary skill in the art which would support a conclusion of obviousness since they do not, singly or together,, lead to an expectation of success in providing improved performance by switching between antennas responsive to detection of antenna coverage.

Additionally, it is respectfully submitted that neither Mizoguchi nor Vannatta et al. provides motivation for combination with the other because of the close proximity of the antennas in Mizoguchi and the failure of Vannatta et al. to teach any particular consideration of antenna degradation due to body proximity.

Werling et al., as previously pointed out teaches use of a plurality of antennas to achieve a generally omnidirectional radiation pattern and simply deactivates antennas which may radiate in the direction of detected human tissue. Such a teaching does not answer the recitation of switching between antennas and moreover there is no teaching or suggestion in Werling et al. of placing the antennas at spaced locations, as claimed, such that when one antenna is covered, another is, presumably, not similarly covered. Bowen et al., as also previously pointed out, is directed to changing between operating modes (e.g. normal handset mode and speaker phone mode) based on detection of proximity to a user's ear. Bowen et al. thus has nothing to do with antenna degradation at all, much less due to coverage by a user's hand, or providing corrective control of the antenna. Therefore, neither Werling et al. nor Bowen et al. mitigate the deficiencies of Mizoguchi and/or Vannatta et al., singly or in combination.

Specifically, both independent claims 1 and 9 recite two space apart antennas, detection of coverage of one of the antennas (claim 9 by reciting detection of deterioration of an antenna characteristic by an optical

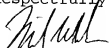
sensor) and switching *between* the antenna in response to such detection. This combination of features is simply not shown to be within the level of ordinary skill in the art by the teachings and/or suggestions contained in the prior art relied upon in any combination. Rather, it is respectfully submitted that the Examiner has not addressed the basic concept of the invention, as claimed, which provides for direct detection of conditions likely to cause poor operation of an antenna by a simple sensor and without complex signal processing or interference with operation of the portable radio terminal and the various grounds of rejection are, in essence, attempted hindsight reconstructions of the claimed invention which, in any case, do not answer the explicit recitations of the claims. Further, it is respectfully submitted that the Examiner has attempted to buttress the improper rejection of the claims based on prior art through the improper rejection of claims under 35 U.S.C. §112, first paragraph. Accordingly, it is respectfully submitted that the Examiner has not made a *prima facie* demonstration of obviousness of any claim in the application and the various grounds of rejection asserted by the Examiner are thus clearly in error and untenable. Thus, upon reconsideration, withdrawal of all six grounds of rejection is respectfully requested.

Since all rejections, objections and requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the present claims, it is respectfully submitted that reconsideration is now in order under the provisions of 37 C.F.R. §1.111(b) and such reconsideration is respectfully requested. Upon reconsideration, it is also respectfully submitted that this application is in condition for allowance and such

action is therefore respectfully requested.

If an extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,



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